

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	14-CR-175-AGF-DDN
	)	
v.	)	
	)	
MARK PALMER <i>et al.</i> ,	)	
	)	
Defendants.	)	

**CERTAIN DEFENDANTS' JOINT MOTION TO AMEND  
THE ORDER CONCERNING PRETRIAL MOTIONS**

Come now certain of the Defendants, by and through their respective and undersigned counsel, and for this Joint Motion to Amend the Order Concerning Pretrial Motions (Doc. 81) state:

1. When the parties originally appeared in Court, the Government indicated that discovery consisted of approximately 1,000,000 pages.
2. The Government indicated that the discovery would be provided at regular intervals.
3. To date approximately 15,900 pages of discovery have been provided to Defendants on 3 discs, the last of which was produced to Defendants on or about August 15, 2014.
4. On or about October 14, 2014, Attorneys in each of the above cases wrote to Assistant U.S. Attorney Jim Delworth requesting an update on the timing of the Government providing the balance of the outstanding discovery. *See, e.g.* Exhibit A.
5. Mr. Delworth responded to these letters on October 16, 2014. (Exhibit B)

6. It is obvious from Mr. Delworth's response that Defendants will not be provided with all of the discovery the Government plans to voluntarily disclose in these cases in advance of the current pretrial motion deadline on November 17, 2014. *See* Ex. B at pp. 1-2.

7. More troubling is the fact that unlike the orderly "roll out" of discovery anticipated by the Government during the initial appearances and arraignments of defendants, and despite defendants' counsel having requested a date certain by which they may expect to receive all of the discovery materials the Government plans to disclose, they have not been provided with an end date by which they will be provided the remaining discovery, which based on the Government's original estimates, could consist of as much as 984,000 pages.

8. Defendants will require at least 6 months from the date that all discovery has been received in which to review the discovery, discuss same with their clients and to file pre-trial motions.

9. Defendants therefore move for the Court to enter its Order vacating the previous pretrial motion schedule (Doc. 81) and setting a new one. Defendants request that the new pretrial order set a discovery cut-off date of December 1, 2014 by which the Government is obligated to provide Defendants all of the discovery in this case, that Defendants be permitted to propound any additional discovery requests and requests for pretrial disclosure of information or evidence by March 30, 2015, with the Government to respond by April 24, 2014, and that Defendants be granted until June 19, 2015 in which to file pre-trial motions. Defendants further request that the amended order concerning pretrial motions include a provision for defendants to file replies to any response the Government files in response to defendants' pretrial motions.

10. Defendants do not welcome such a continuance of these cases, one necessitated by a delay in their receipt of the disclosures by the Government that are required in order for them to adequately evaluate and prepare pretrial motions. To deprive them of such discovery

and the opportunity to file motions based thereon would be manifestly unjust and the failure to grant a continuance in the proceeding to permit such review and preparation would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.

11. The ends of justice are served by the Court granting the instant motion, and the right of defendants to receive and review discovery before preparing pretrial motions outweighs the best interests of the public and the defendants in a speedy trial. Moreover, this case is somewhat unusual in that it presents novel questions law regarding controlled substances and analogs. It is therefore unreasonable to expect Defendants' counsel to make adequate for pretrial proceedings without complete discovery first being provided by the Government, with such discovery to include, but certainly not be limited to the results of all laboratory testing conducted on evidence the Government seized in these cases.

12. Therefore, Defendants respectfully submit that the period of the delay resulting from the continuance sought herein shall be excludable under the Speedy Trial Act. *See* 18 U.S.C. 3161(h)(7)(A) & (B).

WHEREFORE, the undersigned Defendants request that this Court enter its Order granting this motion, amending the order concerning pretrial motions, and granting all such other and further relief as may be just under the circumstances.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 23, 2014, a copy of the foregoing *Certain Defendants' Joint Motion to Amend the Order Concerning Pretrial Motions* was filed electronically with the Court's CM/ECF system and that by operation of the Court's electronic filing system all counsel of record send notice of such filing.

/s/ Jason A. Korner